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Atorneys for Plaintiff, The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass Through Certificates Series 2004-KS5

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

THE BANK OF NEW YORK MELLON
TRUST COMPANY, NATIONAL
ASSOCIATION f/k/a THE BANK OF NEW
YORK TRUST COMPANY, N.A. AS
SUCCESSOR TO JP MORGAN CHASE
BANK, AS TRUSTEE FOR RESIDENTIAL
ASSET SECURITIES CORPORATION,
HOME EQUITY MORTGAGE ASSET-
BACKED PASS THROUGH CERTIFICATES
SERIES 2004-KS5.

Case No.: 3:17-cv-00059-MMD-WGC

**STIPULATION AND ORDER TO
DISMISS**

Plaintiff

vs.

AIRMOTIVE INVESTMENTS, LLC.;
PECKHAM LANE TOWNHOUSE
ASSOCIATION INC.; E.ALAN TIRAS, ESQ.,
solely in his capacity as trustee for PECKHAM
LANE TOWNHOUSE ASSOCIATION INC.

Defendants.

Plaintiff, The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass Through Certificates Series 2004-KS5 (hereinafter “Plaintiff”) by and through its attorney of record, Krista J. Nielson, Esq. and R. Samuel Ehlers, Esq. of the law firm of Wright, Finlay & Zak, LLP;

1 Defendant, Airmotive Investments, LLC (“Airmotive”), by and through its attorney of record,
2 Timothy E. Rhoda, Esq., of the law firm of Roger P. Croteau & Associates, Ltd., and Defendant,
3 Peckham Lane Townhouse Association, Inc. (“HOA”), by and through its attorney of record,
4 Christopher A. Lund, Esq., of Tyson & Mendes LLP, hereby stipulate and agree as follows:

5 1. The real property which is the subject of this case is commonly known as 186
6 Smithridge Park, Reno, Nevada 89052, APN No. 025-040-07 (“Property”) and is part of the
7 Peckham Lane Townhouse Association (“HOA”);

8 2. Plaintiff is the holder of a first Deed of Trust securing a loan in the amount of
9 \$74,400 made on or about March 24, 2004 (“Note”), by Gary F. Blackwell and Georgina E.
10 Blackwell (“Borrower”) and recorded on March 31, 2004, in the Official Records of Washoe
11 County, Nevada as Book and Instrument Number 3015126 (“Deed of Trust”);

12 3. On April 24, 2013, a Notice of Default and Election to Sell was recorded against
13 the Property by E. Alan Tiras (“Tiras”), as agent for HOA;

14 4. On August 1, 2013, a Notice of Foreclosure Sale was recorded against the
15 Property by Tiras, as agent for HOA;

16 5. Tiras sold the Property on behalf of HOA on September 12, 2013 (“HOA Sale”)
17 to TBR, I, LLC by Foreclosure Deed recorded as Book and Instrument Number 4285733 in the
18 official records of the Washoe County Recorder;

19 6. On or about February 26, 2016, TBR 1, LLC, quitclaimed its interest in the
20 Property to Airmotive via a Quitclaim Deed recorded in the Washoe County Recorder as Book
21 and Instrument Number 4565076.

22 7. On January 30, 2014, Plaintiff filed a Complaint for Quiet Title in Case Number
23 3:17-cv-00059 (“Action”);

24 8. The undersigned Parties have now come to a resolution regarding their respective
25 claims and interest in the Property;

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1 WHEREFORE:

2 IT IS HEREBY STIPULATED AND AGREED that the Complaint filed by Plaintiff
3 against Airmotive and HOA is dismissed WITH PREJUDICE as to ALL REMAINING
4 CLAIMS;

5 IT IS FURTHER STIPULATED AND AGREED that nothing in this Stipulation should
6 be construed as intended to benefit any other party not identified as the undersigned Parties
7 hereto, and in particular, shall not constitute a waiver or relinquishment of any claims by
8 Plaintiff against Old Republic National Title Insurance Company or Borrower; and

9 IT IS FURTHER STIPULATED AND AGREED that each party is to bear its own fees
10 and costs.

11 IT IS SO STIPULATED AND AGREED.

12 Dated this 22nd day of August, 2019.

13 WRIGHT, FINLAY & ZAK, LLP

14 */s/ R. Samuel Ehlers*

15 R. Samuel Ehlers, Esq.
16 Nevada Bar No. 9313
17 7785 W. Sahara Ave., Suite 200
18 Las Vegas, Nevada 89117
19 *Attorneys for Plaintiff, The Bank of New
York Mellon Trust Company*

20 Dated this 22nd day of August, 2019.

21 ROGER P. CROTEAU & ASSOCIATES, LTD

22 */s/ Timothy E. Rhoda*

23 Roger P. Croteau, Esq.
24 Nevada Bar No. 4958
25 Timothy E. Rhoda, Esq.
26 9120 West Post Road, Suite 100
27 Las Vegas, Nevada 89148
28 *Attorney for Defendant
Airmotive Investments, LLC*

1 Dated this 22nd day of August, 2019.
2

2 TYSON & MENDES LLP

3 */s/ Thomas E. McGrath*

4 Thomas E. McGrath, Esq.
5 Nevada Bar No. 7086
6 3960 Howard Hughes Pkwy., Ste. 600
7 Las Vegas, Nevada 89169
8 *Attorneys for Defendant, Peckham Lane
Townhouse Association, Inc.*

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10 **IT IS SO ORDERED: the Complaint filed by Plaintiff against Airmotive and HOA
11 is dismissed WITH PREJUDICE as to ALL REMAINING CLAIMS.**

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13 UNITED STATES DISTRICT JUDGE

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Dated: August 22, 2019